

IRS News Release

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IRS Extends Diesel Fuel Penalty Relief Due to Hurricane Katrina

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WASHINGTON – The Internal Revenue Service, in response to the continued shortages of diesel fuel caused by Hurricane Katrina, will extend the penalty relief when dyed diesel fuel is sold for use or used on the highway. The penalty relief will apply throughout the United States.

In IR-2005-89, released September 2, 2005, the IRS announced that it would not impose the dyed fuel penalty when dyed diesel fuel is sold for use or used on the highway and that this relief would remain in effect through September 15, 2005. Today's announcement extends that penalty relief through October 5, 2005. Any dyed diesel fuel held by retailers or users on October 5, 2005, can be used on the highway after that date.

This relief is available to any person that sells or uses dyed diesel fuel for highway use. In the case of fuel that is dyed at the terminal to meet IRS standards, the relief is available to the operator of the vehicle in which the fuel is used only if the operator or the person selling the fuel pays the tax of 24.4 cents per gallon.

To the extent permitted by EPA rules, dyed high sulfur fuel received by retailers, including fuel received after October 5, 2005, may be sold for highway use if the dye is added only at the refinery but not if dye is added at the terminal to meet IRS standards. IRS will waive penalties for highway use of high sulfur fuel that is dyed only at the refinery. Retailers may rely on the representations of their suppliers that fuel received after October 5, 2005, has not been dyed at the terminal.

Position holders are reminded that they are required to pay tax on any high sulfur diesel fuel that has not been dyed at the terminal to meet IRS standards. Terminal operators should not dye, or add additional dye, to any fuel on which tax is paid.

Ordinarily, dyed diesel fuel is not taxed, because it is sold for uses exempt from excise tax, such as to farmers for farming purposes and to local governments for buses.

The IRS is also extending the penalty relief on the recently enacted tax penalty on a failure to meeting the requirements of EPA highway diesel fuel sulfur content regulations if EPA has waived those requirements. This relief will remain in effect until the date the EPA waiver or any extension of that waiver expires.